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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

In re Y. L., a Person Coming Under the
Juvenile Court Law.

B192609

LOS ANGELES COUNTY DEPARTMENT
OF CHILDREN AND FAMILY SERVICES,

(L.A. Super. Ct. No. CK 63210)

Plaintiff and Respondent,

v.

E. C.,

Defendant and Appellant.

APPEAL from orders of the Superior Court of Los Angeles County.

Zeke D. Zeidler, Judge. Reversed in part with directions and affirmed in part.

Joseph D. MacKenzie, under appointment by the Court of Appeal, for
Defendant and Appellant.

Raymond G. Fortner, Jr., County Counsel, Larry Cory, Assistant County
Counsel and Tracey F. Dodds, Deputy County Counsel, for Plaintiff and Respondent.

E. C. (“mother”) appeals from orders made by the juvenile court pursuant to Welfare and Institutions Code section 300¹ establishing jurisdiction over mother’s daughter, Y. L. Mother contends that substantial evidence does not support the court’s findings and orders. We agree that the evidence is insufficient to support the allegations that she knew or reasonably should have known of physical and sexual abuse of Y. L. by her father, G. L. (“father”). As such, we reverse the trial court’s findings on these allegations. In all other respects, we affirm the orders and findings.

BACKGROUND

Y. L. was born in 1988. On April 27, 2006, when Y. L. was 17 years old, the Los Angeles County Department of Children and Family Services (DCFS) received a call on its child abuse hotline reporting that Y. L. had been sexually abused by father for years.² The caller reported that Y. L. had tearfully disclosed this fact to friends at school. When a case worker interviewed Y. L. at home, she denied the allegations because she was unwilling to discuss the matter in the presence of her parents.

The next day, a DCFS caseworker interviewed Y. L. at a friend’s house. Y. L. disclosed that father began to sexually abuse her when she was nine or ten years old and that the abuse continued until shortly before the hotline call. In late October 2005, father had twice beaten Y. L. when she refused to comply with his sexual demands. This physical abuse was reported, and police arrested father and temporarily removed him from the family home. DCFS provided the family with six months of reunification and other services that had ended just over a week before the instant report of sexual abuse. Y. L. told the caseworker that she had never disclosed to anyone that the physical abuse was linked to sexual abuse, and that father had threatened to kill her if she tried to leave home.

Y. L. emphasized that mother never knew about the abuse, Y. L. never told her, and it was “not [mother’s] fault at all.” Y. L. said that father abused her when mother

¹ All further statutory references are to the Welfare and Institutions Code.

² Father is not a party to this appeal.

worked the evening shift or was at home but busy with housework.³ She said that mother was always loving and protective of her and her two younger brothers. Y. L. stated, “I never told my mom or anyone else about what my dad was doing to me because of my mom. I love my mom very much and I didn’t want to hurt her or see her suffer.” She also did not want her brothers removed from the home or her father sent to jail again, despite what he had done to her. She said, “My plan was to live with my parents until I was 18 years old and to then just get the hell out of my house.” Y. L. did not want to live with mother or talk to her about the situation right then, not because mother was to blame, but only because Y. L. felt “very confused and worried about everything that is happening” and felt “dirty inside.” She did not want to live in mother’s home even if her father was excluded, because her father’s relatives lived in the front house on the same lot, and she believed that they would be angry with her and blame her for the situation, including her father’s most recent arrest. She asked to be placed with her maternal aunt in Sacramento.

Later that same night, the caseworker interviewed mother, who was terribly upset, wept during the interview, and vehemently denied knowing of any sexual abuse: “I have never seen or suspected anything inappropriate by her father. . . . [Y. L.] has never told me that her father did this to her. How can I help her when she won’t confide in me or trust me . . . when she never told me anything. I wish she had told me about it. I would have protected her.” Mother said she loved her children “more than anything.” Although she had trouble believing father had done the “horrible” things Y. L. reported because he had “always been a very good husband and father,” she was willing to do whatever the court ordered, including not allowing her husband back in the family home; “I don’t want to lose any of my children.”⁴

³ Mother did not work outside the home after the birth of her youngest son in November 2001.

⁴ Y. L.’s friend’s mother, who had called the child abuse hotline, told the caseworker that earlier on April 28, 2006, she had met with mother to discuss the alleged sexual abuse and request that mother protect Y. L., but that mother did not believe the allegations and threatened to report the friend’s mother to police.

The caseworker sought to interview father that same day, but police had arrested him hours earlier. Y. L.'s brother reported never having seen anything improper. Y. L. was placed in a foster home. Her younger brothers were left in mother's home. The juvenile court ordered father not to return home, and ordered mother not to let him return.

On May 3, 2006, DCFS filed a petition to detain Y. L. from both of her parents under section 300. Mother appeared at the hearing and denied the allegations of the petition. Father, still in custody, was not present. At the detention hearing that same day, the juvenile court found that DCFS had shown a prima facie case for detaining Y. L. from both parents pursuant to section 300, subdivisions (a) [when a child has suffered or faces the risk of serious nonaccidental physical harm inflicted by a parent or guardian], (b) [serious physical harm or illness from a parent or guardian's failure or inability to adequately supervise or protect the child], and (d) [sexual abuse by a family member]. The counts under subdivisions (a), (b), and (d) all alleged that mother "knew or reasonably should have known" of father's physical and sexual abuse of Y. L. The court found grounds for detaining Y. L.'s two younger brothers from their father, but not from their mother, based upon the same subdivisions plus subdivision (j) [when the child's sibling has been abused or neglected]. The court approved Y. L.'s removal from, and her brothers' retention in, mother's home and ordered father not to reside there. The court ordered family reunification services as to Y. L. and family maintenance services as to her brothers. It ordered DCFS-monitored visits between Y. L. and her mother and brothers, but ordered that father have no contact with Y. L.

The court held a jurisdiction hearing on May 25, 2006. DCFS's jurisdiction/disposition report noted that mother intended to move to Yuba City, did not intend to allow father into her home or see him again, and stated that "all she wants to do is regain custody of her daughter . . . a[s] soon as possible." Mother requested a contested hearing, and the court continued the matter to July 11, 2006.

DCFS filed an interim review report on July 11, 2006, which noted that mother was still residing at the same address and had no funds with which to move out and rent

another apartment. Mother still was willing to do whatever the court required to regain custody of Y. L.

At the July 11, 2006 contested hearing, the court found Y. L.'s removal from mother's home and placement in foster care to be necessary and appropriate. It found mother had not yet completed the DCFS case plan. Counsel for Y. L.'s younger brothers moved to dismiss the petition as to them, which the court did. Mother's counsel moved to dismiss the counts against her. She argued that mother was innocent of any wrongdoing because she never knew or had reason to suspect sexual abuse and was unaware of father's earlier physical abuse until his arrest in October 2005. Counsel for Y. L. agreed that mother was unaware of the sexual abuse and that she had fully cooperated in the earlier DCFS intervention. She informed the court that Y. L. wanted to return to her mother and brothers in the future and have unmonitored visits with them. Y. L.'s counsel urged the court to amend the counts to "conform to proof, which I think would mean cutting out all of the language regarding [mother's] failure to protect." The court denied the request, sustained the petition, and found true its allegations, including that mother knew or should have known of the physical and sexual abuse.⁵ Mother was ordered to attend and complete parenting classes, individual and joint (with Y. L.) counseling, and sex abuse counseling for non-offenders. The court continued monitored visitation for mother, but gave DCFS discretion to liberalize visitation. Mother timely appealed "all findings and orders of the court" made on July 11, 2006 except the order dismissing the petition as to Y. L.'s two younger brothers.

DISCUSSION

Mother contends that the juvenile court erred by sustaining the section 300 petition and removing Y. L. from her custody because substantial evidence did not support the jurisdictional findings or the specific counts against her. She further maintains that these alleged errors prejudiced her.

⁵ The court deleted all reference to Y. L.'s brothers from the remaining counts.

Initially we consider the issue of standing. DCFS claims that mother has no standing, because Y. L. has turned 18 since mother filed her appeal, and thus, DCFS reasons, mother no longer has any right to the custody of her adult daughter, no relief for mother is possible, and the appeal is moot. “However, it is necessary for this court to review the order as it affects the rights of the parties as of the time it was made; the appeal is not moot.” (*In re Ruth M.* (1991) 229 Cal.App.3d 475, 480, fn. 4 [dependent child turning eighteen during pendency of appeal did not make that appeal moot].) Section 303 provides that the juvenile court may retain jurisdiction over a dependent child until that individual reaches age 21, and section 391 establishes requirements that juvenile courts and child welfare agencies must fulfill before such jurisdiction is terminated. (See §§ 303, 391; *In re Tamika C.* (2005) 131 Cal.App.4th 1153, 1160-1161.) While a person is subject to dependency jurisdiction, the court has the legal authority to restrict and regulate that person’s relationship with parents and other relatives in ways the court could not with persons not in dependency. If a court erroneously gives itself that power to interfere, then a parent subject to that regulatory authority has a redressable grievance as long as the dependency jurisdiction persists. To date, we have received no indication that dependency jurisdiction over Y. L. has been terminated.

We find, however, that the court’s assumption of jurisdiction in this case was entirely appropriate. The evidence that father sexually abused Y. L. over an eight-year period is uncontroverted. Because the fundamental purpose of a dependency proceeding is to protect the child, rather than to prosecute the parents (*In re Alysha S.* (1996) 51 Cal.App.4th 393, 397), a court may assume jurisdiction over a dependent child based upon the actions of one custodial parent even if the other custodial parent is blameless. “[T]he court’s assumption of jurisdiction is appropriate whenever the juvenile’s home is presently unfit, regardless of whether the unfitness is due to the fault of the parent(s) or some other reason.” (*In re Jennifer P.* (1985) 174 Cal.App.3d 322, 326, fn. 3.) “[A] jurisdictional finding good against one parent is good against both.” (*In re Alysha S.*, *supra*, 51 Cal.App.4th at p. 397; see also *In re Jeffrey P.* (1990) 218 Cal.App.3d 1548, 1553-1554.)

We also find that substantial evidence justifies the juvenile court's removal of Y. L. from mother's home. Y. L., who was almost an adult when she reported father's sexual abuse of her, requested placement away from the family home even if father were not allowed to return, for fear of hostility and recriminations from father's relatives who owned and lived on the same property. Because Y. L. had experience with her paternal relatives' reaction to her complaints about father from his October 2005 arrest, she was reasonably in fear of their reaction to his most recent incarceration in April 2007. A court is justified in protecting the victim of sexual abuse from psychological trauma resulting from her reporting of abuse. Also, under the circumstances, the court had reason for concern whether mother would be able and willing to exclude father from the family home.

We agree with mother, however, that substantial evidence does not support the allegations in the four counts in the petition finding that mother "knew or reasonably should have known" about father's physical abuse of Y. L. in October 2005 and his ongoing sexual abuse of her. Mother denied knowledge or suspicion of sexual abuse, and Y. L. confirmed that she had never told her mother about it. No evidence contradicts these assertions. Similarly, regarding father's physical abuse of Y. L. on two dates in late October 2005, no evidence indicates that mother should have anticipated father's actions. Mother maintains that she did not and had no reason to know of any physical abuse until father was arrested for it. No evidence justifies rejecting her testimony on this point. There is no indication in the record of any earlier physical abuse, Y. L. never told anyone that the physical abuse was linked to sexual abuse, mother complied fully with DCFS on that case plan, and nothing occurred thereafter to alert mother to Y. L.'s plight until the instant events. Accordingly, we agree with Y. L.'s trial counsel that the court should have rejected the petition's allegations that mother knew of or was negligently complicit in father's abuse of Y. L. Substantial evidence does not support these allegations, and they are not necessary for jurisdiction.

DISPOSITION

The juvenile court's findings that mother knew or reasonably should have known of the physical and sexual abuse of Y. L. pursuant to counts a-1, b-1, b-2, and d-1 of the section 300 petition are reversed. The court is directed to amend its order to make findings rejecting those allegations. In all other respects, the court's orders and findings under section 300 are affirmed.

NOT TO BE PUBLISHED.

ROTHSCHILD, J.

We concur:

VOGEL, Acting P.J.

JACKSON, J.*

* (Judge of the L. A. Sup. Ct. assigned by the Chief Justice pursuant to art. VI, § 6 of the Cal. Const.)